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U.S. Department
of Transportation

**Pipeline and
Hazardous Materials
Safety Administration**

Office of
Chief Counsel

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***Hazardous Materials Safety
Law Division***

NOTICE OF PROBABLE VIOLATION

<u>PHMSA Case No.:</u>	05-0636-SIBC-SW	Date Issued:	JAN - 6 2006
<u>Docket No.:</u>	PHMSA-2006-23563 -1		
<u>Respondent:</u>	King Lee Technologies 8949 Kenemar Drive San Diego, CA 92121 Attn: Craig L. Netwig, President		
<u>No. of Alleged Violations:</u>	4		
<u>Maximum Possible Assessment:</u>	\$200,000		
<u>Total Proposed Assessment:</u>	\$6,600 (Includes a \$2,200 reduction for corrective action)		

2006 JAN - 8 PM 4:48
DEPT OF TRANSPORTATION
DOCS

The Office of Chief Counsel of the Pipeline and Hazardous Materials Safety Administration (PHMSA) alleges that you (the Respondent named above) violated certain provisions of the Federal Hazardous Materials Transportation Law, 49 U.S.C. § 5101 et seq., and/or the Hazardous Materials Regulations (HMR), 49 C.F.R. Parts 171 - 180. PHMSA sets forth the specific allegations in Addendum A to this Notice.

What are the maximum and minimum civil penalties that PHMSA can assess? Federal law sets a maximum civil penalty of \$50,000 (or \$100,000 if the violation results in death, serious illness or severe injury, or substantial destruction of property) and a minimum civil penalty of \$250 (or \$450 if the violation concerns training) for each violation of the Federal hazardous materials transportation law or the HMR committed on or after August 10, 2005. Each day of a continuing violation by a shipper or transporter of hazardous materials constitutes a separate violation for which the maximum penalty may be imposed (49 U.S.C. § 5123(a)).

What factors does PHMSA consider when proposing and assessing a civil penalty? Federal law requires PHMSA to consider certain factors when proposing and assessing a civil penalty for a violation of Federal Hazardous Materials Transportation Law or the HMR. Please refer to Addendum B to this Notice for more information concerning these factors.


When is my response due? You must respond within thirty (30) days from the date you receive the Notice (49 C.F.R. § 107.313(a)), unless you have made a written request for an extension, which must have been approved by PHMSA (49 C.F.R. §107.313(c)). Due to security concerns, mail delivery from the United States Postal Service (USPS) is experiencing significant delays. As a result, you should allow at least 72 hours for delivery, even for overnight service by the USPS. To assure timely receipt, **PHMSA strongly encourages you to submit your response by e-mail, fax, or express mail.** A response received out of time will not be considered.

What are my response options? You may respond to this Notice in any of three ways:

- (1) Admit the alleged violations and pay the proposed assessment (49 C.F.R. § 107.313(a)(1));
- (2) Send an informal response, which can include a request for an informal conference (49 C.F.R. § 107.313(a)(2)); or
- (3) Request a formal hearing (49 C.F.R. § 107.313(a)(3)).

PHMSA provides information on these options in Addendum B to this Notice and the Office of Chief Counsel's homepage (<http://rspa-atty.dot.gov>). PHMSA explains its procedures for assessing civil penalties and imposing compliance orders in 49 C.F.R. § 107.307 through 107.331.

What happens if I fail to respond? You waive your right to contest the allegations made in Addendum A to this Notice if you fail to respond within thirty (30) days of receiving it (or by the end of any extension). Also, the Acting Chief Counsel may make a finding of fact consistent with the allegations in this Notice and assess an appropriate civil penalty if you fail to respond within the applicable time frame.


Maria Wodraska, Attorney
Phone: (202) 366-4608
maria.wodraska@dot.gov

Enclosures: Addendum A
Addendum B
Addendum C
Case Exhibits

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

PHMSA Case No. 05-0636-SIBC-SW

SPECIFIC ALLEGATIONS

Probable Violation No. 1

Respondent offered for transportation in commerce a hazardous material, in a quantity requiring placarding, when Respondent had not developed and implemented a security plan, in violation of 49 C.F.R. §§ 171.2(b), and 172.800(b).

Factual Allegations/Averments

A. On October 13, 2005, Respondent offered and transported 2,000 pounds of hazardous materials (corrosive liquid, acidic, organic, n.o.s. (contains phosphoric acid) 8, UN3265, PGII) in commerce.

B. On October 13, 2005, Respondent had not developed or implemented a security plan.

- Please see Inspection/Investigation Report Number 05453090 at page 2, and the exhibits that accompany this report, which are incorporated herein.

Probable Violation No. 2

Respondent offered for transportation in commerce a hazardous material packaged in a UN standard marked and certified packaging that had not been closed in accordance with the manufacturer's closure instructions, in violation of 49 C.F.R. §§ 171.2(a), 173.22(a)(4), and 173.24(f)(2).

Factual Allegations/Averments

A. Respondent packaged hazardous materials, corrosive liquid, acidic, organic, n.o.s. (contains phosphoric acid), 8, UN3265, PGII, in a UN standard 1H1 55-gallon steel drum.

B. Respondent used a standard bung wrench to close the drum in question and did not tighten the bung to any specific torque.

C. The manufacturer's closure instructions, for the drum in question, required the drum to be closed to a specific torque (20 ft. lbs. of torque).

D. Respondent failed to tighten the bungs to the specific torque required by the manufacturer's instructions.

E. On October 13, 2005, Respondent offered and transported in commerce hazardous material, corrosive liquid, acidic, organic, n.o.s. (contains phosphoric acid), 8, UN3265, PGII, packaged in the drum in question.

- Please see Inspection/Investigation Report Number 05453090 at pages 3, and the exhibits that accompany this report, which are incorporated herein.

Probable Violation No. 3

Respondent allowed employees to perform functions subject to the HMR when these hazardous materials employees had not received hazardous materials training and testing, in violation of 49 C.F.R. §§ 171.2(b), 172.702(b), and 172.704(a).

Factual Allegations/Averments

A. Respondent employs personnel who prepare hazardous materials shipping papers and who perform other functions subject to the HMR.

B. On or about October 13, 2005, Respondents employees performed the functions outlined in paragraph A, above.

C. Respondents employees had not received hazardous materials training and testing in the following areas:

- 1) General awareness/familiarization;
- 2) Function-specific;
- 3) Safety;
- 4) Security awareness; and
- 5) In-depth security.

- Please see Inspection/Investigation Report Number 05453090 at page 4, and the exhibits that accompany this report, which are incorporated herein.

Probable Violation No. 4

Respondent offered for transportation in commerce hazardous materials, in amounts requiring placarding, without registering with the Department of Transportation as an offeror of hazardous materials, in violation of 49 C.F.R. §§171.2(b) and (d), 107.601(a), 107.608(b).

Factual Allegations/Averments

A. On October 13, 2005, Respondent offered and transported 2,000 pounds of hazardous materials (corrosive liquid, acidic, organic, n.o.s. (contains phosphoric acid) 8, UN3265, PGII) in commerce.

B. On October 13, 2005, Respondent had not registered with the Department of Transportation as one who offers hazardous materials for transportation in commerce.

- Please see Inspection/Investigation Report Number 05453090 at page 5, and the exhibits that accompany this report, which are incorporated herein.

FACTS ALREADY CONSIDERED (UNDER 49 C.F.R. § 107.331) IN SETTING PROPOSED PENALTIES

Prior Violations of the Hazardous Materials Regulations:

PHMSA increases proposed penalties when Respondent has committed a prior violation of the Federal Hazardous Materials Transportation Law or the HMR within the last six years, as determined through a civil penalty case, criminal case, or ticketing process (49 C.F.R. § 107.331(d)). More specifically, “the general standards for increasing a baseline proposed penalty on the basis of prior violations are . . . (1) for each prior civil or criminal enforcement case –25% increase over pre-mitigation recommended penalty, and (2) for each prior ticket –10% increase over pre-mitigation recommended penalty” (49 C.F.R. Part 107, Subpart D, Appendix A, Section IV, E).

PHMSA’s records do not contain any prior violations by Respondent and PHMSA did not consider any prior violations in determining the proposed assessment for the violation in this Notice.

Corrective Action:

An important purpose of PHMSA’s enforcement program is to bring the regulated community into compliance with the Hazardous Materials Regulations, and to promote ongoing efforts by that community to maintain compliance. In determining the final penalty assessment, PHMSA considers documented evidence of actions taken by a Respondent to correct violations and ensure that they do not recur (49 C.F.R. § 107.331 (g)).

In its November 12, 2005 correspondence, Respondent described and documented its corrective action as follows:

Probable Violation No. 1 – Respondent developed and implemented a security plan. Based on this corrective action, the proposed penalty assessment has been reduced by \$1,125.

Probable Violation No. 2 – Respondent obtained the manufacturer’s closure instructions for the 55 gallon drums and purchased a wrench that is calibrated for a torque of 20 ft. lbs. Based on this corrective action, the proposed penalty assessment has been reduced by \$625.

Probable Violation No. 3 – Respondent provided its employees hazardous materials general awareness, function specific, safety, and security/in-depth security training. Based on this corrective action, the proposed penalty assessment has been reduced by \$200.

Probable Violation No. 4 – Respondent registered as a shipper of hazardous materials. Based on this corrective action, the proposed penalty assessment has been reduced by \$250.

Financial Status

Under 49 C.F.R. §107.331 (e) and (f), the proposed penalty may be reduced if Respondent demonstrates that it is unable to pay that penalty, or if payment of the proposed penalty would affect Respondent's ability to continue in business. Respondent's poor financial condition may be a basis for reducing the proposed penalty; a healthy financial condition is *not* a basis for increasing the penalty.

PHMSA has no information that indicates that Respondent is unable to pay the proposed penalty. If Respondent believes it lacks the ability to pay the proposed penalty or that the proposed penalty will affect Respondent's ability to continue in business, Respondent should submit a current balance sheet (certified if possible) or other evidence of its assets and liabilities.

TOTAL CIVIL PENALTY PROPOSED

Probable Violation	Maximum Possible Penalty	Baseline Penalty	Increase for Priors	Corrective Action	Proposed Penalty
1	\$50,000	\$4,500	\$ 0	\$1,125	\$3,375
2	\$50,000	\$2,500	\$ 0	\$625	\$1,875
3	\$50,000	\$800	\$ 0	\$200	\$ 600
4	\$50,000	\$1,000	\$ 0	\$250	\$750
TOTAL	\$200,000	\$8,800	\$ 0	\$2,200	\$6,600

DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

How do I respond to this Notice of Probable Violation (Notice)?

You may respond to this Notice in any of three ways:

- (1) Pay the proposed assessment (49 C.F.R. § 107.315);
- (2) Send an informal response, which can include a request for an informal conference (§ 107.317); or
- (3) Request a formal hearing (§ 107.319).

How do I pay the proposed assessment?

You pay the proposed assessment by:

- (1) Sending a wire transfer, through the Federal Reserve Communications System (Fedwire), to the U.S. Treasury account (49 C.F.R. § 89.21(b)(3). Addendum C contains the instructions for sending wire transfers. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-300), ATTN: Shelley Willis, Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125 (Telephone No. 405-954-8893).

Or

- (2) Sending a certified check or money order if the penalty amount is \$10,000 or less. The certified check or money order must be payable to the "U.S. Department of Transportation" and must be mailed to the Chief, Financial Operations Division, Attn: Shelley Willis, Federal Aviation Administration, Mike Monroney Aeronautical Center, AMZ-300, P.O. Box 25082, Oklahoma City, OK 73125.

Or

- (3) Using a credit card via the Internet. To pay electronically with a credit card, visit the following website address and follow the instructions:

<https://www.pay.gov/paygov/>

Where do I send my response?

You must address your informal response or formal hearing request to the attorney who issued the Notice at the following address:

Pipeline and Hazardous Materials Safety Administration
Office of the Chief Counsel (PHC-10)
Room 8417
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590-0001

When is my response due? (§ 107.313)

You must respond to the Notice within thirty (30) days of the date you receive it. The attorney who issued the Notice may extend the 30-day period for your response if you ask for an extension, and show good cause, within the original 30-day period.

What happens if I do not respond? (§ 107.313)

If you fail to respond to the Notice within thirty (30) days of receiving it (or by the end of any extension), you will waive your right to contest the allegations made in Addendum A to the Notice. In addition, the Chief Counsel will issue a default Order finding the facts as alleged in the Notice and assessing the civil penalty as outlined within that notice.

May I propose a compromise offer? (§ 107.327)

Yes. At any time before an order is issued and referred to the Attorney General for collection, you may propose to compromise a civil penalty case by submitting a specific compromise offer amount to the attorney handling the case (§ 107.327). The Chief Counsel may also propose a compromise.

If a compromise is agreeable to all parties, the attorney handling the case will forward a compromise agreement to you for signature. This document will outline the terms of the joint agreement and you must return a signed original to the attorney handling the case within 30 days. After this agreement has been returned it will be signed by the assigned attorney and presented to the Chief Counsel with a request that the Chief Counsel adopt the terms of that agreement by issuing a Compromise Order (49 C.F.R. § 107.327(a)(1)). The terms of the agreement constitute an offer of compromise until accepted by the Chief Counsel. When you agree to a compromise, you give up your right to appeal the order issued by the Chief Counsel.

What should I include in my informal response? (107.317)

Your informal response must contain written explanations, information or arguments that respond to the allegation(s), the amount of the proposed civil penalty, or the terms of a compliance order. Provide complete documentation of your explanations and arguments. A specific format is required for an informal response.

May I request an informal conference? (107.317)

Yes. You may request an informal conference as part of your informal response. Please discuss the issues you want to discuss during the conference. After receiving your request, the attorney handling the case will contact you to arrange the conference. Normally the conference will be held by telephone, and the attorney handling the case and the inspector who conducted the compliance inspection will participate in the conference.

What happens after I submit an informal response to the Notice?

We will hold an informal conference if you have asked for one. Based on the Notice, the evidence supporting the Notice, any written explanations, information and documentation that you provide, and matters presented at a conference, the Chief Counsel decides the case. The Chief Counsel may issue an order finding all or some of the violation(s) alleged in the Notice or may withdraw all or some of the alleged violation(s). If the Chief Counsel finds violation(s), the order will assess a civil penalty.

How do I appeal an order? (§ 107.325)

You may appeal an order to PHMSA's Administrator.

How do I request a formal hearing? (§ 107.319)

You must request a formal hearing within 30 days of the date that you receive the Notice. If you are granted an extension of time to respond to the Notice, you must submit a formal hearing request by the end of the extended time period. If you do not request a formal hearing within the specified time, you will waive your right to a formal hearing.

Your request for a formal administrative hearing must include the following:

- (1) The name and address of the respondent and any other person submitting request;
- (2) A statement of which allegations of violations are not in dispute; and
- (3) A description of the issues that you will raise at the hearing. (The Administrative Law Judge will decide whether issues not raised in the request may be raised at the hearing.)

After receiving a request for a hearing that complies with these requirements, the Chief Counsel will request an Administrative Law Judge from the DOT Office of Hearings to preside over the hearing. Once an Administrative Law Judge is assigned, all further matters in the proceeding will be conducted by the Administrative Law Judge. Either you or PHMSA may appeal the decision of the Administrative Law Judge to PHMSA's Administrator.

How does PHMSA determine if I have committed a violation?

This is a civil penalty case and PHMSA uses the "knowingly" standard, which is defined in the Federal hazardous materials transportation law (See 49 U.S.C. 5123(a)(1)), in all civil penalty cases. The standard for a violation is similar to "negligence." After considering all the available information (including the additional information you provide in your response to the Notice), PHMSA must find either that (1) you had "actual knowledge" of the facts giving rise to the violation, or (2) you had "imputed knowledge," of the facts giving rise to the violation, in that a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge. PHMSA does not need to find that you actually knew about, or intended to violate, requirements in the Federal hazardous material transportation law or the HMR.

What factors does PHMSA consider when proposing and assessing a civil penalty? (§ 107.331)

PHMSA considers the following factors when proposing and assessing a civil penalty for a violation of the regulations:

- (1) The nature and circumstances of the violation(s);
- (2) The extent and gravity of the violation(s);
- (3) The degree of your culpability;
- (4) Your history, if any, of prior offenses;
- (5) Your ability to pay the penalty;

- (6) The effect of the penalty on your ability to continue in business;
- (7) The size of your business, and
- (8) Other matters as justice may require.

The nature and the timeliness of any corrective action you take to prevent future violations similar nature will be considered under item No. 8. However, you must submit documented evidence of that corrective action to the PHMSA attorney. If you have submitted document evidence regarding any of these factors during PHMSA's investigation of the alleged violation and that documentation is referenced in the Notice or accompanying Inspection/Investigation Report, you do not need to resubmit it.

Under the Small Business Regulatory Enforcement Fairness Act (SBREFA), PHMSA must consider the rights of small entities in enforcement actions. PHMSA's hazardous materials enforcement program has been designed to consider small businesses and the penalties that PHMSA proposes and assesses are generally considered appropriate for small businesses. PHMSA takes into consideration the size of the company when proposing and assessing a civil penalty.

However, special consideration may not be given to a small business if:

- (1) The small business has not corrected its violation(s) within a reasonable time;
- (2) The small business has committed one or more prior violations of the HMR;
- (3) The violations involve willful conduct;
- (4) The violations pose serious threats to health, safety or the environment; or
- (5) The small business has not made a good faith effort to comply with the law.

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. Our objective is to ensure a fair regulatory enforcement environment.

You have a right to contact the Small Business Administration's national Ombudsman at 1-888-REG-FAIR (1-888-734-3247) or www.sbs.gov/ombudsman regarding the fairness of the compliance and enforcement activities by this agency.

The Pipeline and Hazardous Materials Safety Administration strictly forbids retaliatory actions against its employees. As such, you should feel confident that you will not be penalized for expressing your concerns about compliance and enforcement activities.

Where can I find more information on how PHMSA handles hazardous materials enforcement cases?

A more detailed discussion of these procedures is in 49 C.F.R. §§ 107.301 through 107.333. These procedures are also on the Office of the Chief Counsel's home page at "<http://phmsa-attty.dot.gov>."

**INSTRUCTIONS FOR ELECTRONIC FUNDS TRANSFER TO
THE FEDERAL AVIATION ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION**

1. <u>RECEIVER'S ABA NO.</u> 021030004	2. <u>TYPE SUBTYPE</u> (provided by sending bank)
3. <u>SENDING BANK ABA NO.</u> (Provided by sending bank)	4. <u>SENDING BANK REF NO.</u> (Provided by sending bank)
5. <u>AMOUNT</u>	6. <u>SENDING BANK NAME</u> (Provided by sending bank)
7. <u>RECEIVER NAME:</u> TREAS NYC	8. <u>PRODUCT CODE</u> (Normally CTR, or as provided by sending bank)
9. <u>BENEFICIARY (BFN) - AGENCY LOCATION CODE</u> <u>BNF=/ AC 69-14-0001</u>	10. <u>REASONS FOR PAYMENT</u> Example: PHMSA - Payment for Case # / Ticket Number/Pipeline Assessment number

INSTRUCTIONS: You, as sender of the wire transfer, must provide the sending bank with the information for Block (1), (5), (7), (9), and (10). The information provided in blocks (1), (7), and (9) are constant and remain the same for all wire transfers to Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

Block #1 - RECEIVER ABA NO.- "021030004". Ensure the sending bank enters this nine-digit identification number; it represents the routing symbol for the U.S. Treasury at the Federal Reserve Bank in New York.

Block #5 - AMOUNT - You as the sender provide the amount of the transfer. Please be sure the transfer amount is punctuated with commas and a decimal point. **EXAMPLE:** \$10,000.00

Block #7 - RECEIVER NAME - "TREAS NYC." Ensure the sending bank enters this abbreviation; it must be used for all wire transfer to the Treasury Department.

Block #9 - BENEFICIARY- AGENCY LOCATION CODE - "BNF=/AC-69140001"
Ensures the sending bank enters this information. This is the Agency Location Code for Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

Block #10 - REASON FOR PAYMENT - "AC-payment for PHMSA Case # / To
ensure your wire transfer is credited properly, enter the case number/ticket number or Pipeline Assessment number, and country."

Note: - A wire transfer must comply with the format and instructions or the Department cannot accept the wire transfer. You, as the sender, can assist this process by notifying, at the time you send the wire transfer to the General Accounting Division (405) 954-8893.

**Inspection / Investigation Report No. 05453090**

U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
Office of Hazardous Materials Enforcement

Inspection Location:

King Lee Technologies
8949 Kenemar Drive
San Diego, CA 92121

Contact: Jeff Netwig, Production Manager
Phone: 858-693-4062
Fax: 858-693-4917

Type of Inspection: SHIPPER INSPECTION
(GENERAL)

Result: ENFORCEMENT REPORT

Inspector: BURTON, ROY
Code: DHM-45.3
Title: HAZARDOUS MATERIALS
ENFORCEMENT SPECIALIST

Signature:

Inspector #2:
Code:
Title:

Supervisor Name: Billy C. Hines, Jr.
Title: Chief, Southwest Region

Authorization Date: 11/22/2005

Summary of Inspection

On October 20, 2005, Hazardous Materials Enforcement Specialist Roy Burton, conducted a compliance inspection at King Lee Technologies (King), San Diego, CA. Mr. Jeff Netwig, Production Manager, represented the company and provided requested documentation. King is a manufacturer and shipper of class 8 water treatment materials contained in drums and IBCs.

Violations noted during the inspection were discussed with King during the Exit Briefing (Exhibit 1). Violations concerned no security plan, packaging closure, employee training and registration.

Correspondence date November 9, 2005, advising of action taken by King to rectify the violations noted in this report, has been received (Exhibit 12).

Violation Number: 1

Number Discovered: 1

49 CFR Section:

171.2(b)

172.800(b).

Exhibit: 2 and 3

Violation Description:

Offering for transportation in commerce a quantity of hazardous material that requires placarding under the provisions of the HMR, while failing to develop and adhere to a security plan.

Evidence Summary:

During review of King's hazmat shipping papers, the inspector noted a shipping paper dated October 13, 2005, denoting a 2,000 pound shipment of Corrosive Liquid, Acidic, Organic, N.O.S. (Contains Phosphoric Acid) 8, UN3265, II (Exhibit 2). Taking note of the gross weight of the hazardous materials listed on the shipping paper, the inspector then asked to review King's security plan. Mr. Jeff Netwig, Production Manager, and Mr. Robert Ning, Vice President of Quality Control, informed the inspector that they were not aware of the security plan requirement and, therefore, were unable to provide a security plan for review (Exhibit 3).

The inspector requested a copy of King's Hazardous Materials Certificate of Registration, but was advised that King had never registered with the U.S. DOT.

Section 172.800(b) states, in part, "By September 25, 2003, each person who offers for transportation in commerce or transports in commerce one or more of the following hazardous materials must develop and adhere to a security plan for hazardous materials that conforms to the requirements of this subpart:...(7) A quantity of hazardous material that requires placarding under the provisions of subpart F of this part."

Section 172.802(b) states "The security plan must be in writing and must be retained for as long as it remains in effect. Copies of the security plan, or portions thereof, must be available to the employees who are responsible for implementing it, consistent with personnel security clearance or background investigation restrictions and a demonstrated need to know. The security plan must be revised and updated as necessary to reflect changing circumstances. When the security plan is updated or revised, all copies of the plan must be maintained as of the date of the most recent revision."

Section 172.504(c) states that placards are required on a transport vehicle containing 454 kg (1,001 pounds) or more aggregate gross weight of hazardous materials covered by table 2 of § 172.504(e).

Violation Number: 2

Number Discovered: 1

49 CFR Section:

171.2(a)(b)(e)(g)(i)
173.22(a)(4)
173.24(f)(2)

Exhibit: 2, 4, 5, 6, 7, 8, 9 and 10

Violation Description:

Offering for transportation in commerce a hazardous material, Corrosive Liquid, Acidic, Organic, N.O.S. (Contains Phosphoric Acid), 8, UN3265, II, packaged in a UN standard marked and certified packaging that had not been closed in accordance with the manufacturer's closure instructions.

Evidence Summary:

During the course of the inspection, the inspector requested to view drums that had been recently filled by King. Mr. Netwig took the inspector to a dual marked 1H1 55-gallon drum that contained Corrosive Liquid, Acidic, Organic, N.O.S. (Contains Phosphoric Acid, 8, UN3265, II, that had not yet been labeled and marked (Exhibits 4 and 5). The inspector noted a marking on top of the drum that the bung should be torqued to 20 FT LBS (Exhibit 6). The inspector then asked Mr. Netwig to demonstrate or explain how King employees close UN standard drums containing hazardous materials. Mr. Netwig stated that for tight-head drums, King employees tighten the bung as tight as possible using a standard bung wrench (Exhibits 7 – 9). The inspector further asked Mr. Netwig if King employees tighten the bung to any specific torque, and Mr. Netwig replied "no." The inspector then asked for a copy of the manufacturer's closure instructions for the observed drums. Mr. Netwig stated that he was unaware of any closure instructions. Mr. Netwig provided the inspector with a shipping paper dated October 13, 2005, denoting the shipment of "Corrosive Liquid, Acidic, Organic, N.O.S. (Contains Phosphoric Acid), UN3265, II (Exhibit 2). Mr. Robert Ning, Vice President of Quality Control, later forwarded to the inspector drum closure instructions received from the manufacturer that confirmed a torque wrench is required to meet the manufacturer's closure instructions as contained in the document and marked on the observed 1H1 drum (Exhibits 6 and 10). In this case, King's standard bung wrench cannot be used.

Section 173.22(a)(4) states, "For a DOT specification or UN standard packaging subject to the requirements of part 178 of this subchapter, a person shall perform all functions necessary to bring that package into compliance with part 178 of this subchapter, as identified by the packaging manufacturer or subsequent distributor, in accordance with § 178.2 of this subchapter."

Section 173.24(f)(2) states, "Except as otherwise provided in this subchapter, a closure (including gaskets and other closure components, if any) used on a specification packaging must conform to all applicable requirements of the specification."

Violation Number: 3

Number Discovered: 2

49 CFR Section:

Exhibit: 2 and 11

171.2(b)

172.702(b)

172.704(a)

Violation Description:

Offering hazardous materials for transportation in commerce while failing to provide each hazmat employee general awareness/familiarization, function-specific, safety, and security awareness training.

Evidence Summary:

During the course of the inspection, the inspector requested to review the hazmat training records for Kings's hazmat employees. Mr. Netwig provided his training record dated December 10, 2004 (Exhibit 11). The inspector then asked for the records of warehouse employees, Bob Steen, who certifies shipping papers (Exhibit 2), and Micha Bezy. Mr. Netwig advised the inspector that he was under the impression that he, the supervisor, was the only employee that required training and, therefore, had no records of training for these two employees. Mr. Netwig provided the inspector with a shipping paper dated October 13, 2005, confirming the shipment of hazardous materials from King (Exhibit 2).

Section 172.702(b) states "Except as provided in § 172.704(c)(1), a hazmat employee who performs any function subject to the requirements of this subchapter may not perform that function unless instructed in the requirements of this subchapter that apply to that function. It is the duty of each hazmat employer to comply with the applicable requirements of this subchapter and to thoroughly instruct each hazmat employee in relation thereto."

Section 172.704(a) states that hazmat employee training shall include the following:

- (1) General awareness/familiarization training;
- (2) Function-specific training;
- (3) Safety training;
- (4) Security awareness training;
- (5) In-depth security training.

Violation Number: 4

Number Discovered: 1

49 CFR Section:

Exhibit: 2

171.2(b)(d)
107.601(a)
107.608(b)

Violation Description:

Offering for transportation in commerce a hazardous material, Corrosive Liquid, Aidic, Organic, n.o.s., 8, UN3265, PG II, while failing to register as an offeror of hazardous materials with the U.S. Department of Transportation, Hazardous Materials Registration Program.

Evidence Summary:

During the course of the inspection, the inspector asked Mr. Netwig if King was registered as a hazmat shipper with the U.S. Department of Transportation. Mr. Netwig stated that he was unaware of any registration requirement, and was unable to provide a registration certificate. During an examination of King's recent hazmat shipping papers, the inspector noted that a shipping paper dated October 13, 2005, denoted a 2000 pound shipment of hazard class 8 material, offered by King (Exhibit 2).

Section 107.608(b) states "No person required to file a registration statement may transport a hazardous material or cause a hazardous material to be transported or shipped, unless such person has on file, in accordance with § 107.620, a current Certificate of Registration in accordance with the requirements of this subpart."

Section 107.601(a)(6) states the registration requirements apply to any person who offers for transportation, or transports in commerce, a quantity of hazardous material that requires placarding.

Section 172.504(c) states that placards are required on a transport vehicle containing 454 kg (1,001 pounds) or more aggregate gross weight of hazardous materials covered by table 2 of § 172.504(e).

Additional Information Pertaining to the Inspection:

In a correspondence dated November 12, 2005, King provided documentation indicating the completion of a security plan, the purchase of a torque wrench and adherence to the manufacturer's instructions for properly closing their drums, a record of training for all King hazmat employees, and a certificate of registration with the U.S. DOT. This action appears to satisfactorily address the violations noted in this report.

Exhibit Summary

Evidence		Obtained From		
No.	Description	Name, Title	Company	City, State
1	Exit Briefing	Inspector		
2	Shipping paper dtd 10/13/05	Jeff Netwig, Production Manager	King Lee Technologies	San Diego, CA
3	Security Inspection Report	Inspector		
4	Drum photo	Inspector		
5	Drum photo	Inspector		
6	Drum photo	Inspector		
7	Drum photo	Inspector		
8	Drum photo	Inspector		
9	Drum photo	Inspector		
10	Closure instructions	Robert Ning, VP, Quality Control	King Lee Technologies	San Diego, CA
11	Training Record	Jeff Netwig, Production Manager	King Lee Technologies	San Diego, CA
12	Correspondence dtd 11/12/05	Robert Ning, VP, Quality Control	King Lee Technologies	San Diego, CA



U.S. Department
of Transportation

Pipeline and
Hazardous Materials
Safety Administration

Office of Hazardous
Materials Enforcement
Southwest Region

8701 South Gessner Rd.
Suite 1110
Houston, Texas 77074

EXIT BRIEFING

(This document is not a final report.)

Date: 10-20-05

Report Control #: 05453090

Company Name: King Lee Technologies

Address: 8949 Kenemat Drive Bldg. 107, San Diego, CA
92121

NAME OF INDIVIDUALS RECEIVING BRIEFING:

Name: Jeff Netwig

Title: Production Mgr.

Name: Robert Ning, Ph.D

Title: V-P Quality Control

Name: _____

Title: _____

This has been a compliance inspection conducted in accordance with Title 49 U.S.C. Section 5121(c). This exit briefing addresses only the areas noted, and it is not a finding of general compliance in any other areas covered by the Hazardous Materials Regulations that were subject to the inspection.

During the course of the inspection the following probable violations of 49 CFR and/or quality control items were noted.

Section: 172.800(a)

Explanation: Failure To develop a Security Plan.

U.S. DOT/RSPA/OHME/SOUTHWEST REGION
REPORT NUMBER: _____
EXHIBIT NUMBER: 1
PAGE NUMBER 1 OF 3

Section: 173.22(a)(4)

Explanation: Failure to close a packaging
in accordance with manufacturer's
closure instructions.

Section: 172.702(b); 172.704(a)

Explanation: Failure to train all hazmat
employees.

x Bob Steen

Micha ~~Bezy~~ 708
Bezy

Section: 107.608(b)

Explanation: Failure to register with the
U.S. Department of Transportation
as a shipper of hazmat.

Section:

Explanation:

U.S. DOT/RSPA/OHME/SOUTHWEST REGION
REPORT NUMBER: 05453090
EXHIBIT NUMBER: 1
PAGE NUMBER 2 OF 3

This document is not a final report. The information gathered at this inspection and any probable violations noted will be reviewed prior to finalizing the report. Probable violation(s) may be removed or others may be added during this review. In addition, quality control items may be revised to become probable violations during this review.

Upon determination that a probable violation exists, the Associate Administrator for Hazardous Materials Safety is authorized to impose certain sanctions, including warning letters, tickets, compliance orders, and civil penalties. In addition, court actions, including injunctive or criminal proceedings, may be initiated. Title 49 U.S.C. Sections 5123 and 5124 provide for civil and criminal penalties for violation of the Hazardous Materials Regulations.

A civil penalty of not more than \$32,500, but not less than \$275, per violation may be imposed through administrative proceedings initiated by the Office of Chief Counsel of the Pipeline and Hazardous Materials Safety Administration. When a criminal violation has been determined by a court, a fine, or imprisonment for not more than 5 years, or both, may be imposed for each violation.

The inspector does not determine which sanction, if any, may be imposed and cannot provide information concerning what proceedings will be initiated or sanctions imposed.

* **Documentation of corrective action submitted in writing to the Inspector within 30 days of the inspection may be considered for mitigation should the sanction imposed result in the issuance of a notice proposing a civil penalty. However, any documented corrective action would not eliminate or preclude the initiation of a civil penalty proceeding, a finding of violation, or assessment of a civil penalty.**

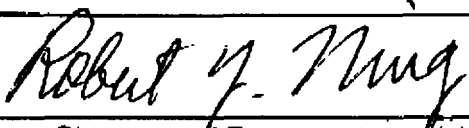
Our objective is to ensure a fair regulatory enforcement environment. If you feel you have been treated unfairly or unprofessionally, you may contact John O'Connell at 202-266-4700, or e-mail us at OHME-HQ@dot.gov. You also have a right to contact the Small Business Administration's National Ombudsman at 1-888-REGFAIR, or www.sba.gov/ombudsman regarding the fairness of the compliance and enforcement activities by this agency. The Pipeline and Hazardous Materials Safety Administration strictly forbids retaliatory acts by its employees. As such, you should feel confident that you will not be penalized for expressing your concerns about compliance and enforcement activities.

I certify that I received the above briefing as it appears on this form. I understand that by signing this form I am in no way expressing agreement with its contents. I am only acknowledging that I have reviewed it and have received a copy.



Signature of Inspector(s)

10-20-05
Date



Signature of Representative(s)

10-20-05
Date



HOLLYWOOD DELIVERY SERVICE

A FREIGHT SYSTEM

14389 San Bernardino Ave., Fontana, CA 92335-5211

(909) 428-0100

STRAIGHT BILL OF LADING

ORIGINAL-NOT NEGOTIABLE

DATE:	10-13-05
SHIPPER'S NUMBER:	
CONSIGNEE'S P.O. NUMBER:	44519

FROM (SHIPPER):	KING LEE TECHNOLOGIES	TO (CONSIGNEE):	W EASTERN MUNICIAPL - Menifee Desalter Plant
STREET	8949 Kenamar Dr. Bldg.107	STREET	29541 Murrieta Road
CITY, STATE	San Diego, CA 92121	CITY, STATE	Sun City, CA 92586
SHIPPER'S TELEPHONE	(858) 693-4062	CONSIGNEE'S TELEPHONE	(951-) 928-3777

NUMBER OF PIECES	KIND OF PACKAGING, DESCRIPTION OF ARTICLES, SPECIAL MARKS AND EXCEPTIONS	WEIGHT Subject to Carriage	CARRIER USE ONLY
4	drums Corrosive Liquid, Acidic, Organic, N.O.S. (Contains Phosphonic Acids) 8, UN3265, II	2000	
	Emergency Ph.# 1-800-424-9300 (Chemtrec)		

THIRD PARTY BILL TO:

Number Rec'd: 4 drums	Date Rec'd: 10-17-05	IF SHIPMENT IS COD, YOU MUST ENTER AMOUNT DUE HERE
-----------------------	----------------------	--

RECEIVED BY Gov	NOTE: Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property. The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding: \$ _____ per pound	FREIGHT CHARGES Prepaid <input checked="" type="checkbox"/> 3rd party <input type="checkbox"/> Collect <input type="checkbox"/> SHIPMENT WILL DELIVER FREIGHT COLLECT UNLESS OTHERWISE INDICATED	C.O.D. AMOUNT DUE TO SHIPPER \$ _____ CHECK OK UNLESS INDICATED <input type="checkbox"/> CASHIERS CHECK ONLY
		THIS IS TO CERTIFY THAT THE ABOVE NAMED ARTICLES ARE PROPERLY CLASSIFIED, DESCRIBED, PACKAGED, MARKED, AND LABELED AND ARE IN PROPER CONDITION FOR TRANSPORTATION, ACCORDING TO THE APPLICABLE REGULATIONS OF THE DEPARTMENT OF TRANSPORTATION.	

RECEIVED, subject to the classifications and tariffs in effect on the date of the issue of the Bill of Lading, the property described above in apparent good order, except as noted (contents and conditions of contents of packages unknown), marked, consigned, and destined as indicated above which said carrier (the word carrier being understood throughout this contract as meaning any person or corporation in possession of the property for contract) agrees to carry to its usual place of delivery at said destination, if on its route, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed as to each carrier of all or any of the property over all or any portion of said route to destination and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the bill of lading terms and conditions in the governing classification on the date of shipment. PURSUANT TO CALIFORNIA LAW, FAILURE TO PAY BILLED CHARGES CAN RESULT IN A LIEN ON FUTURE SHIPMENTS. I hereby certify that he is familiar with all the bill of lading terms and conditions in the governing classification and the said terms and conditions are hereby agreed to by the shipper and accepted for himself and his agents. Transportation of shipments hereunder are subject to the rates, charges, rules and regulations of tariffs and schedules published and on file in our principal office.

U.S. DOT/RSPA/OHME/SOUTHWEST REGION
REPORT NUMBER: 05453090
EXHIBIT NUMBER: 2
PAGE NUMBER 1 OF 1

INVESTIGATIVE NOTES
COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES



PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
HAZMAT SECURITY INSPECTION REPORT

Facility Name and Address: King Lee Technologies
8949 Kenemat Drive, Bldg 107,
San Diego, CA 92121

Company Officials Interviewed:
Jeff Netusil
Robert Ning, Ph.D

Title:
Production Mgr.
V-P Quality Control

1. Does the company offer any of the following for transportation: [§ 172.800(b)]
- ☐ a) A highway route controlled quantity of a Class 7 material.
 - ☐ b) More than 55 pounds of a Division 1.1, 1.2, 1.3 in a motor vehicle, rail car, or freight container.
 - ☐ c) More than 1 liter per package, of a material poison by inhalation, Zone A.
 - ☐ d) A quantity of a hazardous material in a bulk packaging (> 3,500 gallons for liquids/gas, 468 cubic feet for solids).
 - ☐ e) >5,000 lbs. (gw) of one hazard class in non-bulk packaging for which placarding of a vehicle, rail car or freight container is required.
 - ☒ f) A select agent or toxin listed in 42 CFR, Part 73.
 - ☐ g) A quantity of hazardous materials that requires placarding
 - ☐ h) None of Above: Security Plan is not required, though Security Awareness Training is still required to be conducted (See page 2, Security Training)
2. Does the company have a written security plan? Yes ☐ No ☒
3. Has it been approved by another Federal agency [172.804]? Yes ☐ No ☐
4. If yes, name of agency _____ and date approved _____
5. Does the plan include a security assessment of possible transportation security risks [172.802]?
Yes ☐ No ☐
6. Does the plan include measures to address the assessed risk(s)? Yes ☐ No ☐
7. Does the plan address personnel security? Yes ☐ No ☐
8. Is there a method in place to confirm information provided by employees hired for positions that involve access to or handling of materials covered by the security plan? Yes ☐ No ☐

INVESTIGATIVE NOTES
COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES.

1

U.S. DOT/RSPA/OHME/SOUTHWEST REGION
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INVESTIGATIVE NOTES
COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES

9. Is the company adhering to its personnel security plan? Yes _____ No _____

10. Does the plan address unauthorized access? Yes _____ No _____

11. Does the company adhere to the plan to prevent unauthorized persons to gain access to hazmat covered by the plan or transport conveyances being prepared for transportation?

Yes _____ No _____

12. Does the plan address en route security? Yes _____ No _____

13. Does the company adhere to its en route security plan from origin to destination, including private/contract/common carrier? Yes _____ No _____

SECURITY TRAINING

14. Has the company conducted security awareness training (SAT)? * Yes _____ No ✓

15. Does the SAT include a component on how to recognize and respond to possible security threats? Yes _____ No _____

16. Has each HM employee, hired after March 25, 2003, received SAT within 90 days of hire? Yes _____ No _____

17. Has the company conducted in-depth security training (plan specific) for all HM employees? Yes _____ No _____

18. Does the in-depth training program include the following:

a. Company security objectives? Yes _____ No _____

b. Specific security objectives? Yes _____ No _____

c. Employee responsibilities? Yes _____ No _____

d. Actions to take in the event of a security breach? Yes _____ No _____

e. Organizational security structure? Yes _____ No _____

INVESTIGATIVE NOTES
COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES

2

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INVESTIGATIVE NOTES
COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES

19. Has the company created and retained records of employee security training?

Yes _____ No _____

Additional Notes: Jeff Norwig received training on
Dec. 10, 2004. Hazmat employees Micha
Bezy and Bob Steen have never received
hazmat training.

[* Note: A company is not required to test or retain records concerning the security awareness training requirement until an employee's first scheduled recurrent training after March 25, 2003.]

This inspection report assesses your compliance with our Security Plan regulations (49 CFR §§ 172.704 (Training), 172.800 (Purpose and Applicability), 172.802 (Components of a security plan), and 172.804 (Relationship to other Federal requirements)). **This inspection report and any comments made during this evaluation do not constitute an endorsement or approval of your security program in whole or in part. Do not send us a copy of your Security Plan as a part of corrective action. If we need a copy of your Security Plan we will specifically request it in writing.**

I hereby certify that the above responses are true to the best of my knowledge.

Persons Interviewed:

Signature Robert Y. Ning

Date October 20, 2005

Signature _____

Date _____

Inspector(s):

Signature [Signature]

Date 10-20-05

Signature _____

Date _____

Nothing Follows. RJB (Inspector's Initials)

The following website may be helpful in the development and administration of security plans:

http://hazmat.dot.gov/hmt_security.htm

INVESTIGATIVE NOTES
COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES

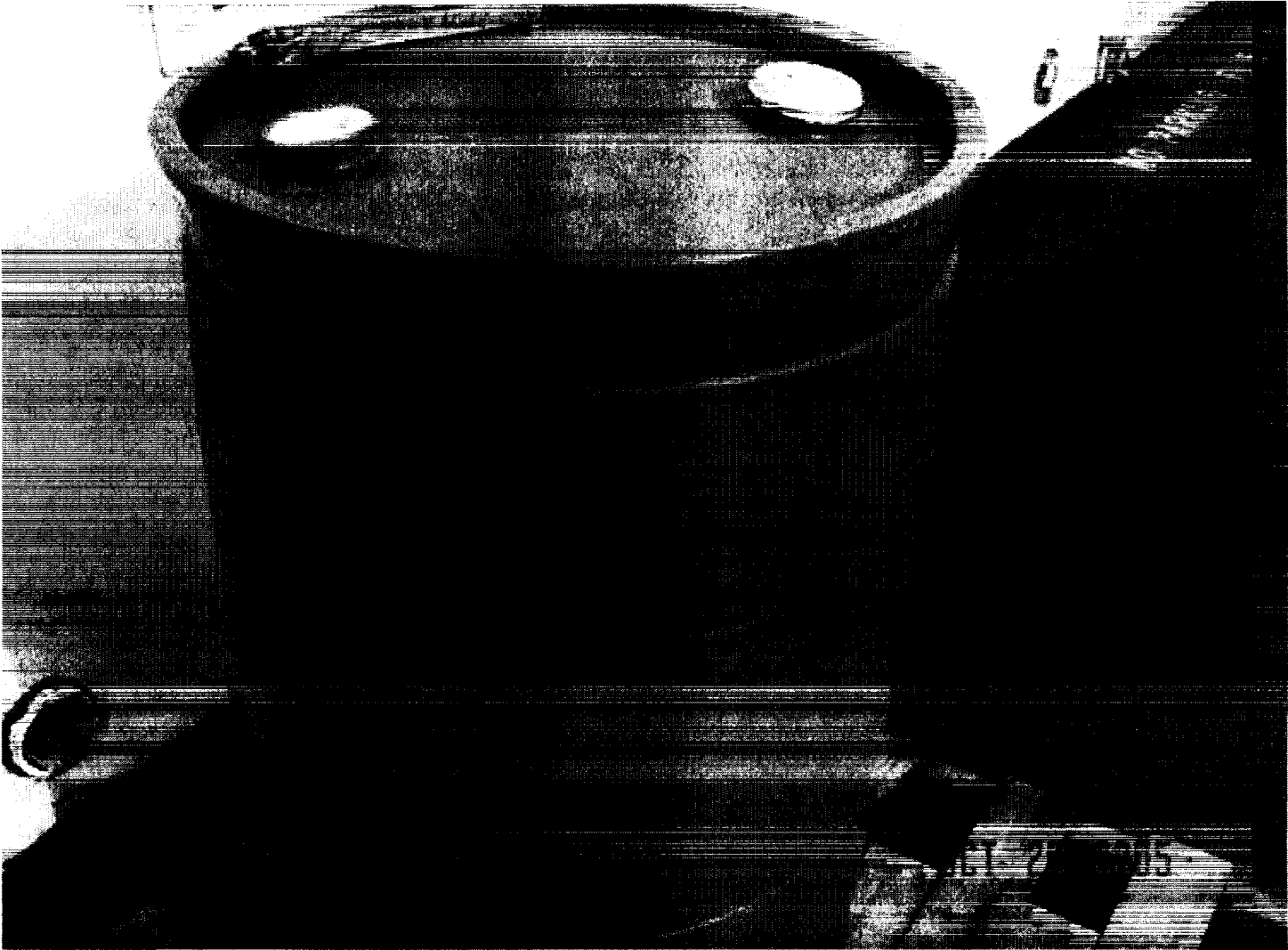
3

U.S. DOT/RSPA/OHME/SOUTHWEST REGION
REPORT NUMBER: 05453090
EXHIBIT NUMBER: 3
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PHOTOGRAPHIC EXHIBIT

Location: King Lee Technologies
San Diego, CA

Photographer: Burton, Roy J



USDOT / RSPA / OHME

Exhibit No: 4

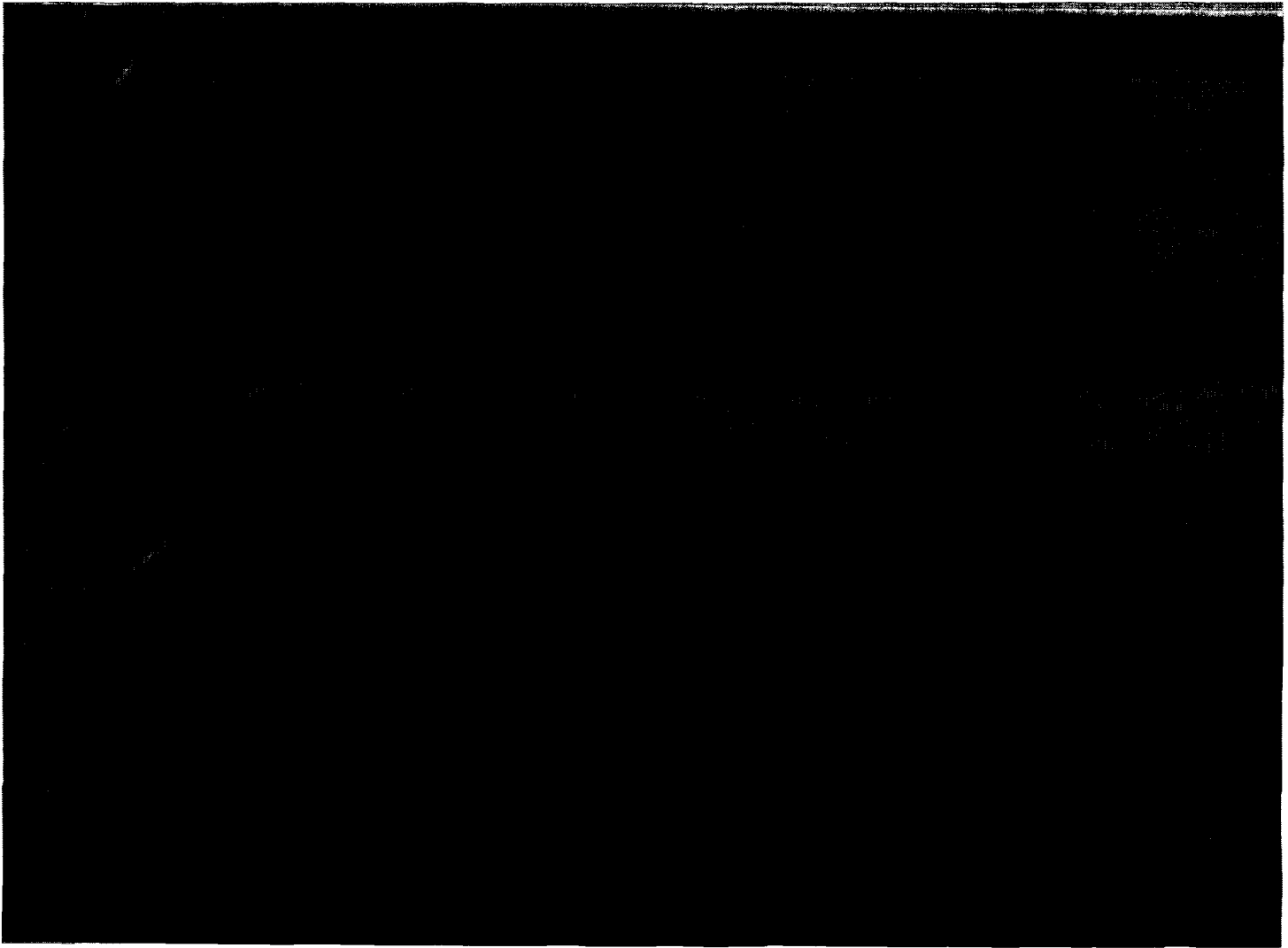
Report No.: 05453090

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PHOTOGRAPHIC EXHIBIT

Location: King Lee Technologies
San Diego, CA

Photographer: Burton, Roy J



USDOT / RSPA / OHME

Exhibit No: 5

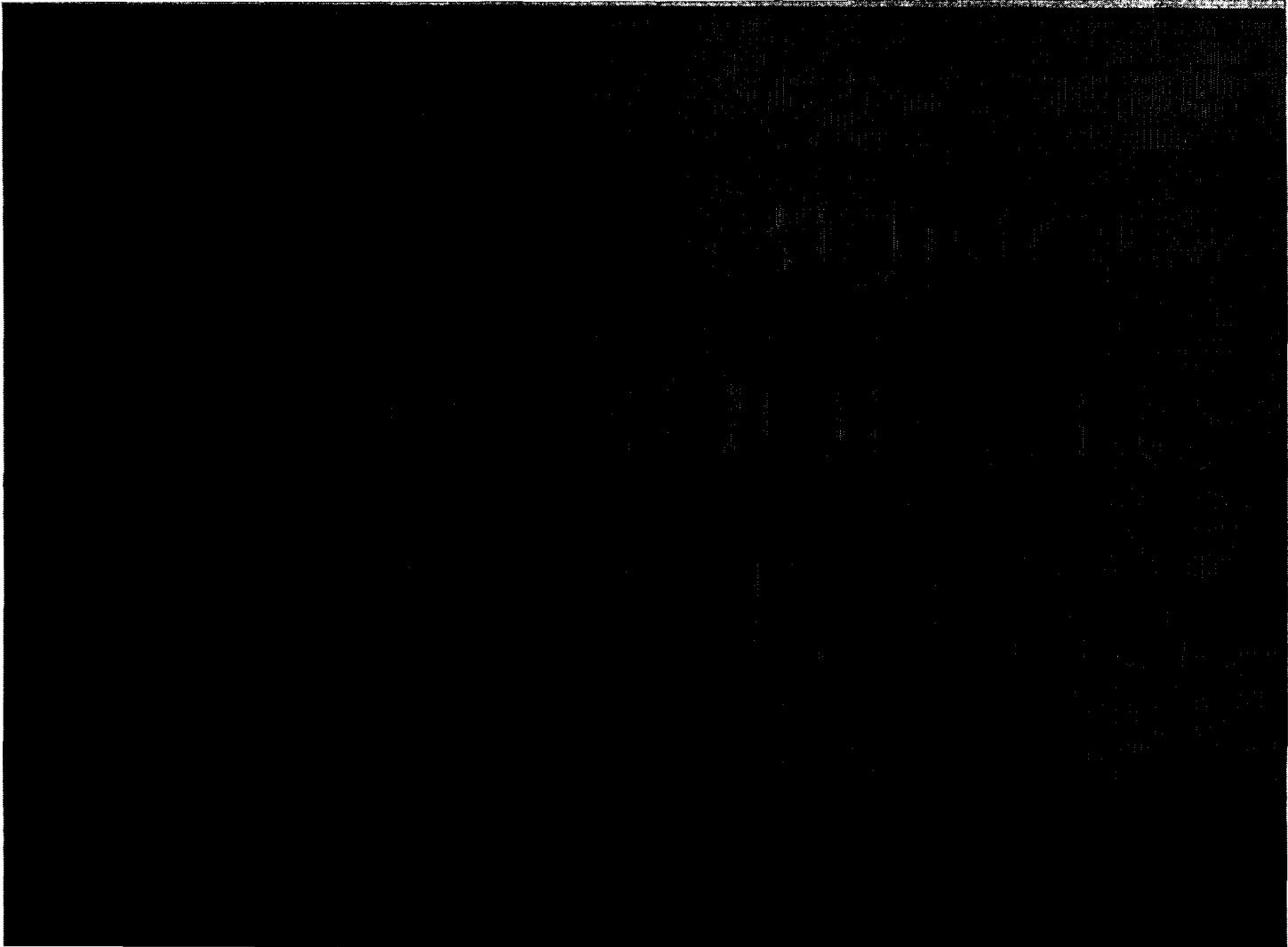
Report No.: 05453090

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PHOTOGRAPHIC EXHIBIT

Location: King Lee Technologies
San Diego, CA

Photographer: Burton, Roy J



USDOT / RSPA / OHME

Exhibit No: 6

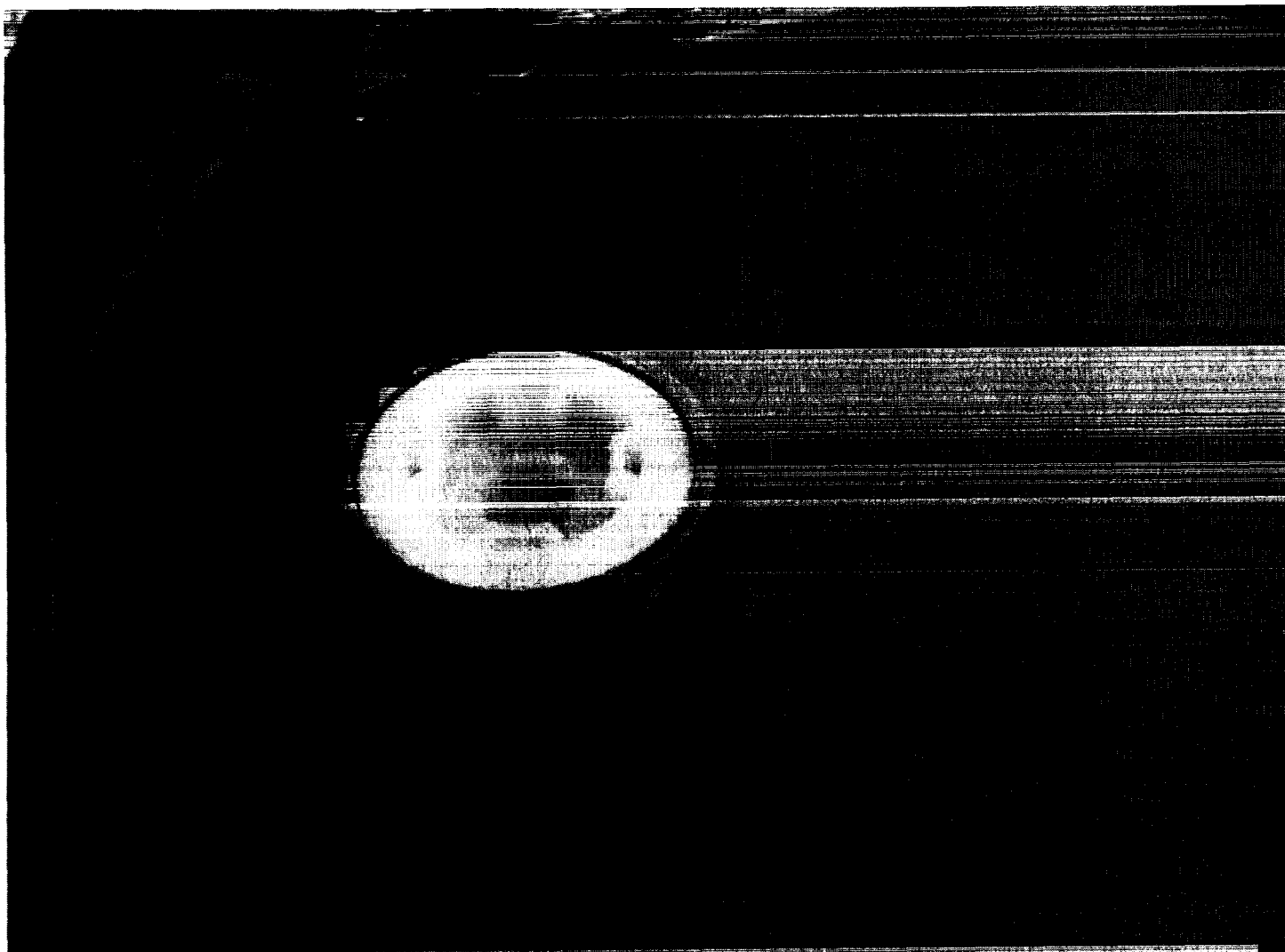
Report No.: 05453090

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PHOTOGRAPHIC EXHIBIT

Location: King Lee Technologies
San Diego, CA

Photographer: Burton, Roy J



USDOT / RSPA / OHME

Exhibit No: 7

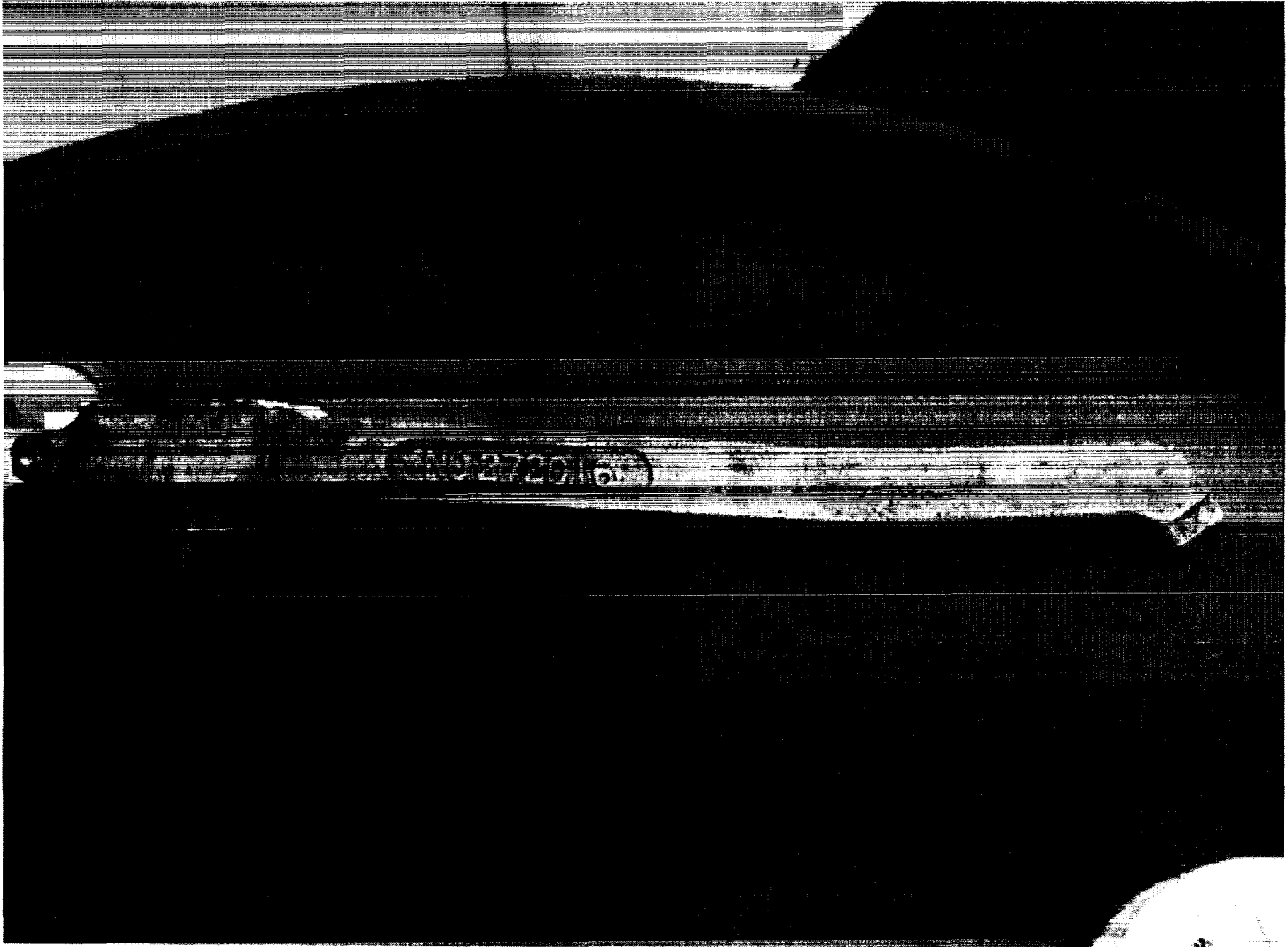
Report No.: 05453090

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PHOTOGRAPHIC EXHIBIT

Location: King Lee Technologies
San Diego, CA

Photographer: Burton, Roy J



USDOT / RSPA / OHME

Exhibit No: 8

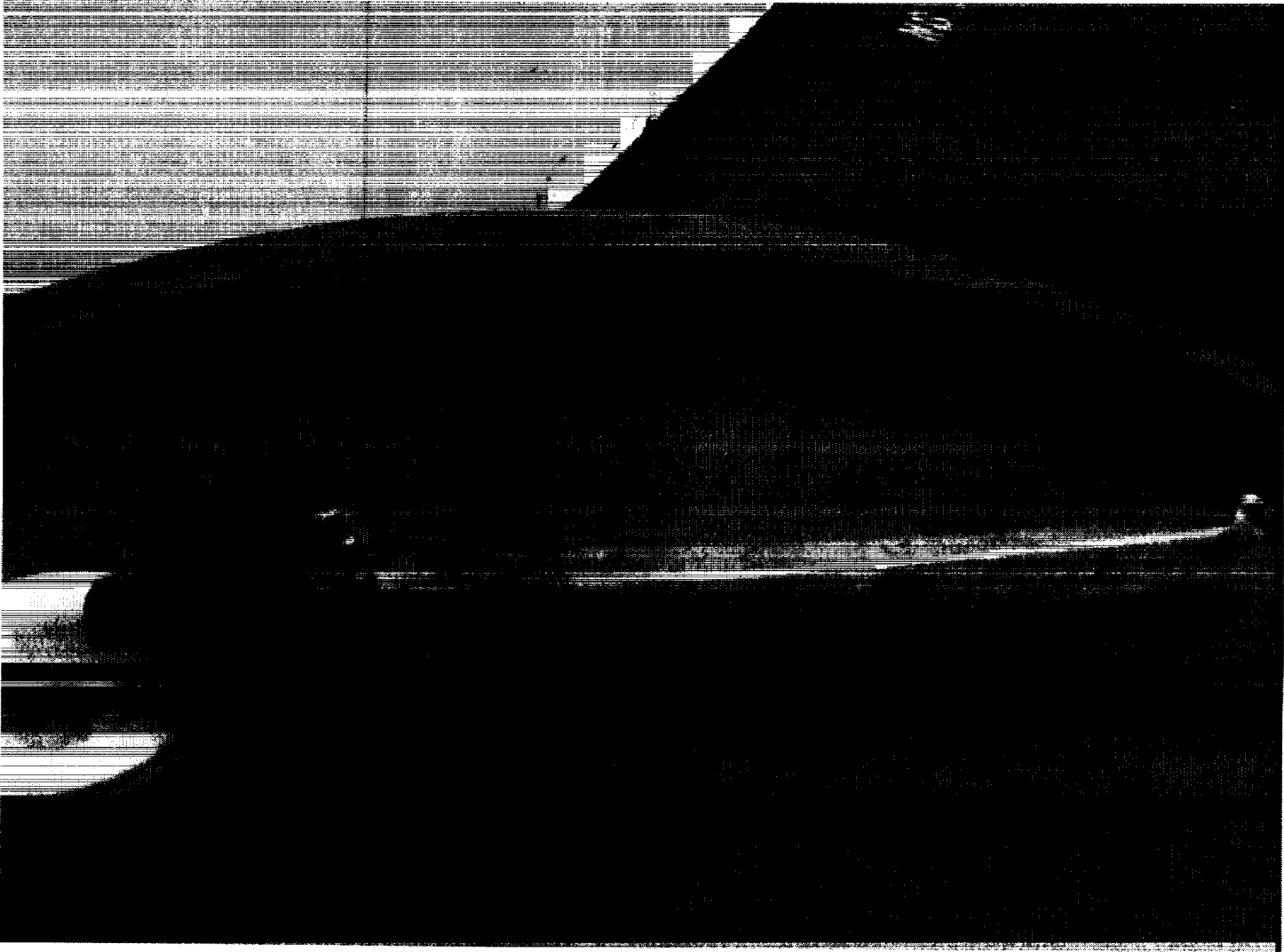
Report No.: 05453090

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PHOTOGRAPHIC EXHIBIT

Location: King Lee Technologies
San Diego, CA

Photographer: Burton, Roy J



USDOT / RSPA / OHME

Exhibit No: 9

Report No.: 05453090

Page 1 of 1

Date : 05-08-03 [16:28]

CLOSURE NOTIFICATION

Company : USA

Product Type

PTH

***** TIGHTHEAD PLASTIC DRUM CLOSURE NOTIFICATION *****
This method of closure should be used to ensure that your containers have been closed in the same manner as when they were initially tested to comply with the requirements of the US Department of Transportation in CFR 49 Part 178.2(c)(1) Performance Transportation of Dangerous Goods in the United States.

Your product may adversely affect container materials, or closing devices. Greif Bros. Corporation has advised the US Department of Transportation that the product compatibility is the customer(s)/filler(s) responsibility.

These instructions for container closure are based upon the closure methods used to enable these containers to pass the qualification test for registration to the United Nations.

The closure recommendations do not take into account any hazards present in your facility, or the handling, filling or shipping methods used by your facility.

Containers with obvious damage or deterioration should not be filled or shipped.

To Close:

1. Openings in tighthead plastic drums MUST BE FITTED WITH Rieke plugs bearing NPS and/or BTR threads.
2. Plugs must be fitted with gaskets appropriate to the plug size and design.
3. Plugs must be placed into the appropriate openings and tightened to a torque level of 20 FT-LBS for 2" fittings and 9 FT-LBS for all 3/4" fittings.

U.S. DOT/RSPA/OHME/SOUTHWEST REGION
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Certificate of Completion

49CFR/IATA/IMDG DANGEROUS GOODS TRAINING

This is to certify that

Jeffrey Netwig

has been successfully trained and tested in the transportation of Dangerous Goods in accordance with the requirements of the International Civil Aviation Organization (ICAO), International Maritime Dangerous Goods (IMDG) Code and the U.S. Department of Transportation, Title 49CFR. This certificate is valid for 12 months for domestic air carrier personnel; 24 months for ICAO and three years for U.S. DOT.



To verify training records, contact DGI Training Center,
1060 El Camino Real, Suite# B, Redwood City CA 94063
Telephone: 650-306-8450
www.dgitraining.com



Seminar Completion Date: *December 10, 2004*
Location: *Las Vegas, NV*
Instructors Name: *Lee Barnes*
Program Director: *Candy L. Cook*

U.S. DOT/RSPA/OHME/SOUTHWEST REGION
REPORT NUMBER: *05453090*
EXHIBIT NUMBER: *11*

KL King Lee Technologies

Mr. Roy Burton
Office of Hazardous Materials Enforcement
US Department of Transportation
8701 S. Gessner Road, Suite 1110
Houston, TX 77074
Tel. 713-272-2820 ; Email: roy.burton@dot.gov

November 9, 2005

Reference: Compliance Inspection Report Dated October 20, 2005
for King Lee Technologies, San Diego, CA
Subject: Documentation of Corrective Action

Dear Mr. Burton:

We appreciate your helpful review of our compliance under 49CFR sections, and are pleased to submit the following corrections in four areas noted by you. Attached for the convenience of your reference is the exit briefing dated 10-20-05 (Attachment 1).

1. Section 172.800(a): Security Plan.

Attached (Attachment 2) is our Security Plan.

2. Section 173.22(a)(4): Packaging closure in accordance with manufacturer's closure instructions.

For the closure of the bungs on standard 55-gallon plastic drums, the manufacturer calls for tightening at a torque of 20 ft-lb. Attached (Attachment 3) is the description of the wrench that is calibrated for that torque, closure instructions, and ordering information.

3. Sections 172.702(b) and 172.704(a): Training of Hazmat employees Bob Steen and Micah Bezy.

To supplement our on-going training on awareness and safety in handling of corrosive raw materials and products, we have added a more comprehensive and documented training program using "7 Steps to Compliance Guidebook" obtained from www.thecompliancecenter.com. Attached (Attachment 4) are cover pages and Table of Contents of this guidebook, and documentation on Steen and Bezy attendance on three training sessions this week on parts of this material. Their formal training will continue using this and other materials specific to their functions in emergency response, self protection, and accident prevention.

4. Section 107.608(b): Registration with DOT as a shipper of hazmat.

Attached (Attachment 5) is our reg'n no. 102105 550 009N for 2005-2006.

Please feel free to contact me if you need further information.



Robert Y. Ning, Ph.D., Vice President, Science and Quality

U.S. DOT/RSPA/OHME/SOUTHWEST REGION
REPORT NUMBER: 05453090
EXHIBIT NUMBER: 12
PAGE NUMBER 1 OF 12

7 Steps to Compliance[®] Guidebook

presented by



U.S. DOT/RSPA/OHME/SOUTHWEST REGION
REPORT NUMBER: 05453090
EXHIBIT NUMBER: 12
PAGE NUMBER 2 OF 12

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unless specifically authorized by ICC The Compliance Center Inc.

Foreword

7 Steps to Compliance®

ICC The Compliance Center Inc. has devised a method to help you ship hazardous materials. Following these seven steps ensures you will be compliant with Title 49 of the Code of Federal Register - Hazardous Materials Regulations (49 CFR).



Objectives

This guide has been prepared using the 7 Steps to Compliance® concept. The first section introduces and outlines basic responsibilities under the 49 CFR. Each subsequent section is one step of the 7-Step process. By presenting the information in this format, it is easy to read and is a logical thought process for how a shipment of hazardous materials would be prepared. By using this guidebook to supplement training of your employees, you increase your employees' ability to retain the knowledge and put it to practical use. Each section provides the information detailed in the table of contents, as well as a quiz that can be completed by the employee. The test key has been provided separate from the guidebook. It is recommended that the test key be given to the supervisor of the employee who is receiving this guidebook.

This guidebook is based on interpretation of the 49 CFR, October 2003. For specific information, please refer to the current edition of the regulations.

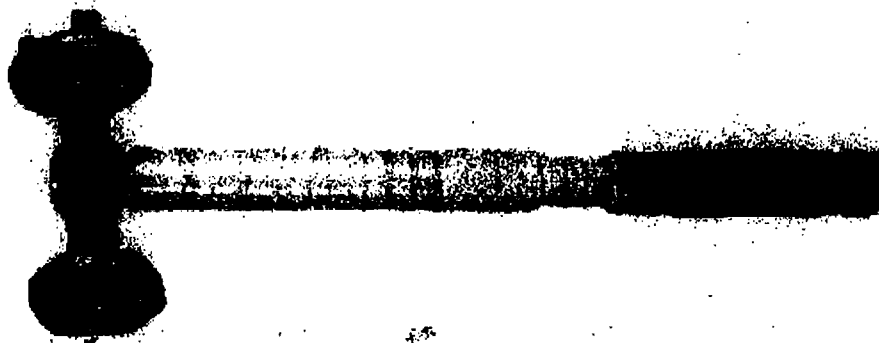
If you have any comments about this guidebook, please forward them to:
marketing@tbecompliancecenter.com.

U.S. DOT/RSPA/OHME/SOUTHWEST REGION
REPORT NUMBER: 05453090
EXHIBIT NUMBER: 12
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"HOW TIGHT IS TIGHT"

At long last the eternal question is answered by the use of this preset torque wrench especially designed for drum closure tightening. All of the guess work regarding torque measurements for a plug have been eliminated with the Rieke Packaging Systems preset torque wrench.

The rugged tool, an exclusive with Rieke Packaging Systems, has been designed for use with Rieke VISEGRIP® closures, Rieke POLY-VISEGRIP® closures, and Rieke VISEGRIP® Nylon closures that have either a rubber gasket or Polyethylene plastic gasket. The proper torque setting for each type is built into the tool. Tools are color coded to differentiate torque settings: 9/20 Yellow; 15/30 Red; 20/40 Blue. As the plug is tightened, when the prescribed torque is attained, the handle "breaks" or slips slightly so the user knows he has tightened sufficiently. Continued tightening will not harm the tool. The 3/4" side of the wrench has a lower torque setting than the 2" to compensate for the difference in size, thus two torque wrenches are built into one tool.

Properly tightened Rieke Packaging Systems VISEGRIP® and POLY-VISEGRIP® closures cannot breathe or leak.

Rieke Packaging Systems manufactures a large line of closures and dispensing products to the global market; unique or common. If we can be of any service in providing or aiding in the design of your packaging requirements, please call your local sales representative or the Auburn, Indiana headquarters office at 260.925.3700.

Phone No.: 260.925.3700
Fax No.: 260.925.2493
E-Mail: sales@riekecorp.com

Address:
500 West 7th Street
Auburn, IN 46706 USA

www.riekepackaging.com

PROVIDING THE TOTAL PACKAGE

Rieke Packaging Systems[®]

U.S. DOT/RSPA/OHME/SOUTHWEST REGION
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BEST CONTAINERS.COM
2595 PALMER AVENUE
UNIVERSITY PARK, IL 60466

WORK ORDER

WORK ORDER NO.	533058
PAGE	1
DATE	10/21/05

Complete
10/21/05

THANK YOU FOR YOUR ORDER--\$2

S H I P T O

KING LEE TECHNOLOGIES
8949 KENAMAR DR #107
ATTN: CRAIG NETWIG
SAN DIEGO, CA 92121

SMB

BEST CONTAINERS.COM
2976 E STATE ST 120
815-464-7307
EAGLE, ID 83616-6228

151332
BEST CONTAINERS.COM
2976 E STATE ST 120
815-464-7307
EAGLE, ID 83616-6228

REFERENCE NUMBER	ORDER DATE	REQ. SHIP DATE	TERMS	WH	FREIGHT	SHIP VIA	
4905	10/21/05	10/21/05	SMB	UP	BILLED	UPS	
ITEM	DESCRIPTION	ORDERED	SHIPPED	BACK ORDER	U/M	WEIGHT	LOC.
RWP-MT20	PLUG WRENCH 20/9 PRESET TORQUE NONSPK	1	1	0EA		5	B604B
						TOTAL	5.0
						WEIGHT	

TERMS & CONDITIONS 1) THE ONLY WARRANTY MADE BY SELLER IS THAT THE PRODUCTS DESCRIBED ABOVE WILL MEET MANUFACTURER'S SPECIFICATIONS, AND IN THE EVENT THE PRODUCTS FAIL TO MEET SUCH SPECIFICATIONS, SELLER'S SOLE LIABILITY IS THE VALUE OF SUCH PRODUCTS. CLAIMS FOR SHORTAGES OR DEFECTIVE PRODUCTS MUST BE MADE WITHIN 30 DAYS AFTER RECEIPT AND ARE SUBJECT TO OUR INSPECTION OF GOODS. 2) SELLER REPRESENTS THAT WITH RESPECT TO THE PRODUCTION OF THE ARTICLES AND/OR THE PERFORMANCE OF THE SERVICES COVERED BY THIS INVOICE IT HAS FULLY COMPLIED WITH SECTION 179A OF THE FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED. 3) WE ACCEPT NO RESPONSIBILITY FOR COMPLIANCE WITH MUNICIPAL, STATE AND FEDERAL REGULATIONS, NOR FOR LEADAGE FROM ANY CAUSE. 4) NO RETURNS WILL BE ACCEPTED WITHOUT PRIOR WRITTEN AUTHORIZATION.

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